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QUESTION OF THE REALIZATION IN ALL COUNTRIES OF THE ECONOMIC, SOCIAL AND CULTURAL RIGHTS CONTAINED IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND IN THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, AND STUDY OF SPECIAL PROBLEMS WHICH THE DEVELOPING COUNTRIES FACE IN THEIR EFFORTS TO ACHIEVE THESE HUMAN RIGHTS

Written statement submitted by Habitat International Coalition, a non-governmental organization on the Roster

The Secretary-General has received the following communication which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[7 January 1991]

1. The human right to adequate housing, recognized in many of the texts comprising international human rights law, remains an unfulfilled right for over one billion persons. 1/ As the United Nations Global Strategy for Shelter to the Year 2000 (GSS) has appropriately noted: "No nation can claim to have reached the objective of adequate shelter for all citizens ...". 2/ Homelessness and inadequate shelter conditions are, to varying degrees, facts of life in all States, in most countries these problems are increasing rather than coming closer to a solution.

2. Habitat International Coalition respectfully submits to the Commission that the time has come for operationalizing the right to housing. Although they remain inadequate, some important steps have been taken since the International Year of Shelter for the Homeless (IYSH) in 1987. The Committee on Economic, Social and Cultural Rights has totally revised its guidelines for States' reports, including a much more robust and mature view of housing rights. The Committee has also held a "general discussion" on this right at its fourth session (1990). They declared at least one State to be in violation of the obligations inherent in this right during their fifth session.

3. At another level, the United Nations Special Rapporteur on the Realization of Economic, Social and Cultural Rights of the Sub-Commission, Mr. Danilo Türk, addressed the issue of the right to adequate housing extensively within his first progress report, in the context of further standard setting (E/CN.4/Sub.2/1990/19, pp. 38-42). During the debate of this report, all Sub-Commission members who spoke on the theme of housing rights supported the desirability of carrying out a study on housing rights. While many other instances could be noted, the fact remains that with the exception of two rather generally-worded resolutions (1986/36 and 1987/22), the Commission itself has rarely addressed the specific aspects of this right.

4. Habitat International Coalition is convinced that action by the Commission on the issue of housing rights can prove fruitful and worth-while in terms of encouraging the realization of this right throughout the world; however, the Coalition fully recognizes the loaded agenda and limited resources of the Commission.

5. Among the many actions felt to be of particular importance, each of which, in practice, could be carried out by the Commission in the quest of fully addressing housing rights, are the following stated below.

6. Condemning the practice of mass and forced evictions as fundamental violations of the human right to adequate housing: the forced or arbitrary eviction of people from their homes against their will is a widespread and global practice of States. Millions of people are forcibly evicted from their homes annually throughout the world; each one is an individual victim of housing rights violations.

7. Discussing the possible drafting and adoption of a code of conduct on evictions, recognizing that in the vast majority of instances, evictions cannot be justified if human rights criteria are applied: where evictions absolutely cannot be prevented or where they are carried out in the true interests of those being moved, with their full consent, the application of a code of conduct could prove a valuable tool aimed at strengthening the housing rights of affected persons and groups.

8. Discussing the possible drafting and adoption of an international declaration or convention on housing rights, thereby giving this still underdeveloped right the precision, scope, expanse and clarity it requires to become fully operationalized: while housing rights exist within many

international legal texts, the general nature of the entitlements and obligations inherent in it continue to restrict the necessary strength which should be accorded this fundamental attribute of a full life. General principles within such a text should, at a minimum, include: security of tenure, affordability; accessibility; habitability; dweller control and participation; choice; non-discrimination; and access to effective legal remedies.

9. Encouraging the International Labour Organisation to fully revise its Recommendation No. 115 on Workers' Housing, which is, we hope, outdated and if applied in full, potentially destructive of the very notion of housing rights: with the exception of the Vancouver Declaration on Human Settlements (1976), the International Labour Organisation Recommendation No. 115 is the only other international text concerned specifically with housing. Its current form legitimizes the eviction of "slum dwellers" and overemphasizes "employer-provided housing", to mention just two of its many inadequacies. For these and other reasons, the International Labour Conference recommended the revision of this text in 1987 (res. III); however, no action has been taken to date.

10. Encouraging the Special Rapporteur on the Realization of Economic, Social and Cultural Rights to continue his work surrounding the right to housing in the context of further standard setting, and the Sub-Commission as a whole to pursue the issue of housing rights with vigour, perhaps by appointing one expert to carry out a study on housing rights: there seems to be every reason for the Sub-Commission to be encouraged to carry out a study on housing rights, similar in form to the study on the right to food, completed in 1989. Indeed, without such a comprehensive and accessible study, housing rights will continue as a vague and unenforceable norm.

11. Encouraging the secretariat to initiate activities surrounding the right to adequate housing, including the publication of a human rights fact sheet on housing rights as part of the World Information Campaign for Human Rights: such a fact sheet could provide a broad overview of what the United Nations is doing and has done within the domain of housing rights, what this right actually means in both practical and legal terms, and which specific measures might be required to make this right a more prominent global reality.

12. Encouraging the United Nations Centre and Commission on Human Settlements to include human rights and thus housing rights criteria within the indicators of monitoring progress on the goals contained in the Global Strategy for Shelter to the Year 2000, currently being developed by these fellow members of the United Nations family: if traditional housing indicators are not broadly expanded to include essential elements directly relevant to housing rights, there is little chance that these will be useful within the human rights domain. The numbers of homeless persons and those inadequately housed, the percentage of people with adequate security of tenure, the access to credit and building materials, issues of housing and environmental health and many other "new" indicators require immediate attention, development, refinement and collection.

13. Encouraging States to adopt legislation which guarantees adequate, fair and sustainable security of tenure to all inhabitants: study after study has shown that legal security of tenure acts as a prerequisite for people investing in the improvement of their own homes, as well as for their feeling secure and legally protected against eviction. However, hundreds of millions of dwellers continue to exist with only limited tenure or none at all.

14. Adopting the recommendation made by the Special Rapporteur on the Realization of Economic, Social and Cultural Rights of the Sub-Commission, Mr. Danilo Türk, to consider requesting the Secretary-General to organize a seminar for discussion of appropriate indicators to measure achievements in the progressive realization of economic, social and cultural rights: within the context of such a seminar, housing rights specific indicators could be discussed, refined and eventually incorporated into the work of the United Nations human rights bodies.

15. Encouraging the United Nations Committee on Economic, Social and Cultural Rights, as a matter of priority, to draft an Optional Protocol to the Covenant enabling individuals and groups to forward applications to the Committee: economic, social and cultural rights, if they are truly equal to and interdependent with civil and political rights, must be subject to legally based complaints from alleged victims of violations of these norms.

Notes

1/ For instance: Covenant on Economic, Social and Cultural Rights (art. 11 (1)); Universal Declaration on Human Rights (art. 25); Convention on the Elimination of All Forms of Racial Discrimination (art. 5), *et al*.

2/ General Assembly resolution 43/181 of 20 December 1988.